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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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LOCKE LIDDELL & SAPP LLP  
ATTN: SUE COTT  
2200 ROSS AVENUE  
SUITE 2200  
DALLAS, TX 75201-6776

EXAMINER

HAYES, BRET C

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 04/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/874,491

Applicant(s)

NORTHROP ET AL.

Examiner

Bret C Hayes

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☒ Claim(s) 8,9 and 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “28” has been used to designate a ledge on both items 20 and 42.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “30” has been used to designate a lip on both items 20 and 42.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 72 and 74.

A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. The disclosure is objected to because of the following informalities: page 1, Description of Related Art, 2<sup>nd</sup> pp, line 3, “are” should be --is--; page 9, line 2, “when” should be --and--; line 4, insert --device-- after “watering” and before the comma; line 15, insert --to-- before “detach”.

Appropriate correction is required.

### ***Claim Objections***

5. Claims 8, 19 and 26 are objected to because of the following informalities: claims 8 and 26, line 2, “a” should be --an--; and claim 19, line 2, “comprise” should be --comprises--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

Art Unit: 3644

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1 – 19 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
8. Claims 1 and 10 recites the limitation "the center portion" in lines 14 and 15. There is insufficient antecedent basis for this limitation in the claim.
9. Claim 10 recites the limitation "the continuous waterer" in lines 20 and 22. There is insufficient antecedent basis for this limitation in the claim.
10. Claim 29 recites the limitation "the continuous waterer" in lines 5 and 7. There is insufficient antecedent basis for this limitation in the claim.
11. Regarding claims 2 – 9 and 11 – 19, any claim dependent upon a claim rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention is also rejected.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 1, 4, 5, 20, 23 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Nos. 6,055,934 to Burns et al. in view of 5,501,178 to Kemp.

Art Unit: 3644

Burns et al. disclose the invention substantially as claimed. Burns et al. disclose a lower container with an open top **32**, an upper reservoir **12** located above the lower container **32**, the upper reservoir **12** having an intake chamber **18**, a lift tube **16**, and a pump **64**.

Burns et al. do not disclose a smooth and curved ramp to support a stream of water or a ledge attached to the upper reservoir having a curved lip and a curved cross sectional area.

Kemp teaches a smooth and curved ramp **32** to support a stream of water and a ledge **30**, **31**, attached to the upper reservoir having a curved lip and a curved cross sectional area in the same field of endeavor for the purpose of controlling water flow over the ramp.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the teaching of Kemp to modify Burns et al. in order to more effectively control the flow of water over the ramp.

14. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burns et al. in view of Kemp as applied to claim 1 above, in further view of 5,326,032 to Quillin.

Burns et al. in view of Kemp disclose the claimed invention except for the pump being a submersible pump with all suction ports being submerged.

Burns et al. disclose a pump with a flow regulator in claims 5 and 6.

Quillin teaches a submersible pump with all suction ports being submerged in the same field of endeavor for the purpose of pumping water more quietly so as to protect a pleasant falling water sound, Abstract, line 4.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the teaching of Quillin to modify Burns et al. in view of Kemp in order to less noisily pump water.

Art Unit: 3644

15. Claims 6 – 9, and 24 – 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burns et al. in view of Kemp as applied to claims 1 and 20 above, in further view of 5,743,210 to Lampe.

Burns et al. disclose the upper reservoir **12** having a filter **20,120** that is charcoal based, col. 10, line 24, and the upper reservoir having an overflow prevention means, col. 5, lines 61 and 62.

Burns et al. do not disclose the lower container having a pair of handles for carrying the device.

Lampe teaches handles **66** in the same field of endeavor for the purpose of carrying the watering device.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the teaching of Lampe to modify Burns et al. in view of Kemp in order to carry of the device with a pair of handles.

16. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burns et al. in view of Kemp as applied to claim 1 above, further in view of 6,101,974 to Frohlich.

Burns et al. in view of Kemp disclose the invention substantially as claimed. Burns et al. further disclose a removable portable reservoir **12**.

However, Burns et al. in view of Kemp do not disclose a valve having open and closed positions wherein the valve is in the closed position when not installed on the device and in the open position when installed on the device.

Frohlich teaches the use of a valve **320** having open and closed positions wherein the valve is normally in the closed position and able to be put into the open position in the same field

Art Unit: 3644

of endeavor for the purpose of retaining water inside a container without spilling the water while transporting it from one location to another.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the teaching of Frohlich to modify Burns et al. in view of Kemp in order to retain water inside a container without spilling the water while transporting it from one location to another.

Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the valve of Frohlich to automatically move into the open position when installed on the device, since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. In re Venner, 120 USPQ 192.

17. Claims 11 – 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burns et al. in view of Kemp in further view of Frohlich as applied to claim 10 above, further in view of 6,079,361 to Howell et al.

Burns et al. in view of Kemp in further view of Frohlich as applied to claim 10 above, disclose the invention substantially as claimed.

However, Burns et al. in view of Kemp in further view of Frohlich as applied to claim 10 above, do not disclose the removable and portable storage reservoir being translucent, having at least one flat side and having at least one grip.

Howell et al. teach a reservoir **104** being translucent, col. 3, lines 41 – 45, having a flat side **138** and having a grip **145** in the same field of endeavor for the purposes of visually

Art Unit: 3644

inspecting the level of water in the reservoir **104**, having a flat surface **138** to set the reservoir **104** down without it falling over and having a handle **145** to carry the reservoir **104**.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the teaching of *Bowell et al.* to modify *Burns et al.* in view of *Kemp* in further view of *Frohlich* in order to visually inspect the water level, set the reservoir on a flat surface and carry the reservoir.

18. Claims 14 – 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Burns et al.* in view of *Kemp* in further view of *Frohlich* as applied to claim 10 above.

*Burns et al.* disclose a filter **20,120** to remove debris being charcoal or carbon-based, col. 10, line 24, and the upper reservoir having an overflow prevention means, col. 5, lines 61 and 62.

19. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Burns et al.* in view of *Kemp* in further view of *Frohlich* as applied to claim 10 above, in further view of *Quillin*.

*Burns et al.* in view of *Kemp* in further view of *Frohlich* as applied to claim 10 above, disclose the invention substantially as claimed.

However, *Burns et al.* in view of *Kemp* in further view of *Frohlich* as applied to claim 10 above, do not disclose the pump being a submersible pump with all suction ports being submerged.

*Burns et al.* disclose a pump with a flow regulator in claims 5 and 6.

*Quillin* teaches a submersible pump with all suction ports being submerged in the same field of endeavor for the purpose of pumping water more quietly so as to protect a pleasant falling water sound, Abstract, line 4.



Art Unit: 3644

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the teaching of Quillin to modify Burns et al. in view of Kemp in further view of Frohlich in order to less noisily pump water.

20. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burns et al. in view of Kemp in further view of Frohlich as applied to claim 10 above, in further view of Lampe.

Burns et al. in view of Kemp in further view of Frohlich as applied to claim 10 above, do not disclose the lower container having a pair of handles for carrying the device.

Lampe teaches handles 66 in the same field of endeavor for the purpose of carrying the watering device.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the teaching of Lampe to modify Burns et al. in view of Kemp in further view of Frohlich in order to carry of the device with a pair of handles.

21. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burns et al. in view of Kemp as applied to claim 20 above, in further view of 5,326,032 to Quillin.

Burns et al. in view of Kemp disclose the claimed invention except for the pump being a submersible pump with all suction ports being submerged.

Burns et al. disclose a pump with a flow regulator in claims 5 and 6.

Quillin teaches a submersible pump with all suction ports being submerged in the same field of endeavor for the purpose of pumping water more quietly so as to protect a pleasant falling water sound, Abstract, line 4.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the teaching of Quillin to modify Burns et al. in view of Kemp in order to less noisily pump water.

22. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burns et al. in view of Kemp as applied to claim 20 above, in further view of Frohlich.

Burns et al. in view of Kemp as applied to claim 20 above, disclose the invention substantially as claimed.

However, Burns et al. in view of Kemp do not disclose a valve having open and closed positions wherein the valve is in the closed position when not installed on the device and in the open position when installed on the device.

Frohlich teaches the use of a valve **320** having open and closed positions wherein the valve is normally in the closed position and able to be put into the open position in the same field of endeavor for the purpose of retaining water inside a container without spilling the water while transporting it from one location to another.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the teaching of Frohlich to modify Burns et al. in view of Kemp in order to retain water inside a container without spilling the water while transporting it from one location to another.

Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the valve of Frohlich to automatically move into the open position when installed on the device, since it has been held that broadly providing a mechanical or

Art Unit: 3644

automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. In re Venner, 120 USPQ 192.

23. Claims 30 – 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burns et al. in view of Kemp as applied to claims 1 – 29 above, in further view of Quillin.

Burns et al. in view of Kemp disclose the invention except for the pump being submerged.

Quillin teaches a submersible pump with all suction ports being submerged in the same field of endeavor for the purpose of pumping water more quietly so as to protect a pleasant falling water sound, Abstract, line 4.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the teaching of Quillin to modify Burns et al. in view of Kemp in order to less noisily pump water.

### *Conclusion*

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. Des. 432,279 to Kim discloses a combined automatic food and water dispenser for pets.

U.S. Patent No. 5,845,600 to Mendes discloses a pet water dispenser with a low water level condition indicator.

U.S. Patent No. 5,842,437 to Burns discloses an animal waterer.

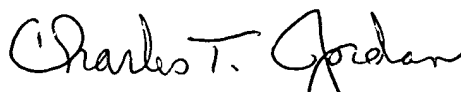
Art Unit: 3644

25. Any inquiry concerning this communication should be directed to Bret Hayes at telephone number (703) 306-0553. The examiner can normally be reached Monday through Thursday and alternating Fridays from 7:00 am to 4:30 pm, Eastern Standard Time.

26. If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan, can be reached at (703) 306-4159. The fax number for this group is (703) 305-7687.

bh

4/12/02

  
CHARLES T. JORDAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3800